

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

IN RE:	§	
	§	CASE NO. 12-43895
NATIVIDAD GARCIA	§	
SARAH GARCIA	§	CHAPTER 13
DEBTORS	§	

**MOTION FOR RELIEF FROM STAY AGAINST PROPERTY AS TO  
5029 MARINEWAY DRIVE, FORT WORTH TX 76106**

**PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 501 W 10<sup>TH</sup> STREET, FORT WORTH TX, BEFORE CLOSE OF BUSINESS ON FEBRUARY 4, 2014 WHICH IS 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED UPON THE COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED.**

COMES NOW, Caliber Home Loans, Inc. ("Caliber") as attorney in fact for U.S. Bank Trust, N.A., as Trustee for LSF8 Master Participation Trust ("Noteholder"), its successors in interest and assigns ("Movant"), and would respectfully show the Court as follows:

1. This Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §§1334 and 157(b) and 11 U.S.C. §§105 and 362. Natividad Garcia and Sarah Garcia ("Debtor") filed a Voluntary Petition for Relief under 11 U.S.C. Chapter 13 on July 3, 2012 ("Bankruptcy Case").

2. At the time the Bankruptcy Case was filed, Debtor was indebted to Noteholder pursuant to an ADJUSTABLE RATE NOTE ("Note"), executed on October 21, 2000, in the original amount of \$118,750.00, with interest thereon. A true and correct copy of the Note is attached hereto as Exhibit A and incorporated herein by reference for all purposes.
3. The obligation to pay the Note is secured by a DEED OF TRUST ("Security Instrument"), dated October 31, 2000. The Security Instrument was duly recorded in the real property records of Tarrant County. A true and correct copy of the Security Instrument is attached hereto as Exhibit B and incorporated herein by reference for all purposes. A true and correct copy of the Assignment(s) of Mortgage are attached hereto as Exhibit C and incorporated herein by referenced for all purposes. The Security Instrument grants a lien on certain real property ("Property") described as:

BEING LOT 1, BLOCK 1 OF MARINE CREEK MEADOWS, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLATE THEREOF RECORDED IN CABINET A, SLIDE 4605, PLAT RECORDS, TARRANT COUNTY, TEXAS

The Property is also known as 5029 Marineway Drive, Fort Worth TX 76106.

4. Noteholder is the present owner and beneficiary of the Note and Security Instrument. Debtor is in breach of the obligations set forth in the Security Instrument. As of the filing of this pleading, the Note is post-petition due for the October 1, 2013 payment and all subsequent post-petition payments.

5. The monthly post-petition payment amount is currently \$724.00. Additional fees include Movant's attorney fees and costs in the amount of \$499.00 plus filing fees of \$176.00 due under the terms of the Note and Security Instrument. The Debtor has funds in suspense in the amount of \$60.60.
6. The failure to pay the post-petition monthly installments when due under the Note constitutes "cause" to terminate the automatic stay pursuant to 11 U.S.C. §362(d)(1).
7. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Security Instrument.
8. The provision of Rule 4001(a)(3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, PREMISES CONSIDERED, Movant prays that this honorable Court enter an Order terminating the automatic stay of 11 U.S.C. §362 as to the Property, or, alternatively, enter an Order modifying the automatic stay of 11 U.S.C. §362 by requiring Debtor to adequately protect Movant's interest in the Property through the payment of timely post-petition installments and for such other and further relief to which Movant may show itself to be justly entitled, either at law or in equity.

Respectfully submitted,  
MARINOSCI & BAXTER

By: /s/ Jonathan M. Williams  
State Bar Number 00791932  
14643 Dallas Parkway, Suite 750  
Dallas, TX 75254  
Telephone 972-331-2300  
Facsimile 972-331-5240  
Email jwilliams@mlg-defaultlaw.com  
ATTORNEYS FOR Caliber  
M&B Number: 13-14399

**CERTIFICATE OF CONFERENCE**

I hereby certify that counsel for Debtor was contacted at least forty-eight (48) hours prior to the filing of this Motion for Relief from Stay, evidenced as follows:

**DATE & TIME**

01/02/2014 at 9:23  
am

**COMMENTS**

362 conference to Debtor's attorney. The Motion will be opposed.

By: /s/ Jonathan M. Williams  
MARINOSCI & BAXTER

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion for Relief from Stay of Act Against Property was served on the parties listed below, at the addresses indicated via electronic delivery or by deposit in the United States Mail, first-class postage pre-paid on January 21, 2014.

By: /s/ Jonathan M. Williams  
MARINOSCI & BAXTER

DEBTOR:

NATIVIDAD GARCIA  
SARAH GARCIA  
5029 MARINEWAY DRIVE  
FT. WORTH, TX 76135

CHAPTER 13 TRUSTEE:

TIM TRUMAN  
6851 N.E. LOOP 820, SUITE 300  
FORT WORTH, TX 76180

DEBTOR'S ATTORNEY:

MICHAEL P. O'DONNELL  
3450 HULEN STREET  
FORT WORTH, TX 76107-6142

UNITED STATES TRUSTEE:

1100 COMMERCE STREET  
ROOM 976  
DALLAS, TX 75242-1496

PARTIES REQUESTING NOTICE:

TARRANT COUNTY  
LINEBARGER GOGGAN BLAIR & SAMPSON  
2777 N. STEMMONS FREEWAY  
SUITE 1000  
DALLAS TX 75207

EAGLE MOUNTAIN-SAGINAW ISD  
C/O EBONEY COBB  
PERDUE BRANDON FIELDER  
COLLINS & MOTT LLP  
PO BOX 13430  
ARLINGTON TX 75094-0430

LANCE E. WILLIAMS  
RIDDLE & WILLIAMS, PC  
3710 RAWLINS STREET  
SUITE 1400 - REGENCY PLAZA  
DALLAS, TX 75219